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Supreme Court of the United States

OCTOBER TERM, 1963
No. 20

W. M. C. A. INC., R. PETER STRAUS, JOSEPH DEMAIO, EDWARD LIND, S. THOMAS DELANEY, EDWARD C. BROWN, JAMES J. MCCAFFERTY,

Plaintiffs-Appellants,

—against—

JOHN P. LOMENZO, Secretary of State of the State of New York, LOUIS J. LEFKOWITZ, Attorney General of the State of New York, PAUL R. SCREVANE, President of the City Council of the City of New York, EUGENE H. NICKERSON, County Executive, Nassau County, LEONARD BERMAN, Chairman, Board of Supervisors, Westchester County, EVANS K. GRIFFING, Chairman, Board of Supervisors, Suffolk County, DENIS J. MAHON, JAMES POWER, JOHN R. CREWS, THOMAS MALLEE, Commissioners, Board of Elections, New York City,

Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK.

BRIEF FOR APPELLEE EVANS K. GRIFFING

GEORGE W. PERCY, JR.,
Suffolk County Attorney
Attorney for Appellee Griffing
Suffolk County Center
Riverhead, New York

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W. M. C. A., Inc., R. Peter Straus, Joseph DeMaio, Edward Lind, S. Thomas Delaney, Edward C. Brown, James J. McCafferty,

Plaintiffs-Appellants,

—against—

John P. Lomenzo, Secretary of State of the State of New York, Louis J. Lefkowitz, Attorney General of the State of New York, Paul R. Screvane, President of the City Council of the City of New York, Eugene H. Nickerson, County Executive, Nassau County, Leonard Berman, Chairman, Board of Supervisors, Westchester County, Evans K. Griffing, Chairman, Board of Supervisors, Suffolk County, Denis J. Mahon, James Power, John R. Crews, Thomas Mallee, Commissioners, Board of Elections, New York City,

Defendants-Appellees.

BRIEF FOR APPELLEE EVANS K. GRIFFING

Statement

Evans K. Griffing, Chairman, Board of Supervisors, Suffolk County,* an appellee herein, respectfully asks

* When this action was begun William J. Leonard was chairman of the Board of Supervisors of Suffolk county. During proceedings below Arthur M. Cromarty became chairman. Evans K. Griffing is now such chairman; the title in this brief has been revised accordingly.

leave that he be permitted to adopt as his position and argument on this appeal the brief of appellees John P. Lomenzo (substituted for Caroline K. Simon), Secretary of State, and Louis J. Lefkowitz, Attorney General of the State of New York, dated October 18, 1963.

ARGUMENT

The brief of appellee Nickerson in support of the position of the appellants repeatedly associates Suffolk county with Nassau county in illustrations of the effect of the New York constitutional and statutory provisions governing apportionment of the state legislature.

Statistics eloquently support argument the two counties stand as closely together in these effects as in their geographical contiguity.

Nevertheless, appellee Griffing (Suffolk county) joins the state officials and Westchester county rather than appellants and those other appellees who have joined appellants.

Since the issues have been thoroughly briefed by both sides and the United States, it remains only to state briefly reasons why the chairman of the Board of Supervisors of Suffolk county should take a position different from that of Nassau county insofar as such reasons may be of an aid to the Court.

This appellee's position is dictated by reason of differences in the form of county government. Both Nassau and Suffolk operate under county charters,

but they are vastly different in many respects. There are important, essential differences in the constituency of the county legislative body and the voting strength and powers of the members thereof.

This appellee is also a defendant in another reapportionment suit (having to do with the method of election and voting powers of the county supervisors) and consistency of positions seems desirable.

Finally, this position will point up to razor-sharpness the issue whether the New York state legislature ca.. be responsive to the overall state-wide popular will under existing statutes which admittedly bring about results where some groups of citizens that can be characterized as of a particular city, or county, or urban area have less representation on a per capita basis than other groups of citizens.

This appellee asserts such discrimination as exists is merited by appropriate factors other than numbers, is tolerable under existing standards, and is not of an invidious nature such as would require a reversal.

Conclusion

For the reasons set forth in the brief of appellee Secretary of State and Attorney General the judgment of the District Court should be affirmed.

Dated: Riverhead, New York, October 24, 1963.

Respectfully submitted,

GEORGE W. PERCY, JR.,
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Suffolk County Center
Riverhead, New York